

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

LA UNIÓN DEL PUEBLO ENTERO, et al.,	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	5:21-CV-0844-XR
	§	[Consolidated Cases]
GREGORY W. ABBOTT, et al.,	§	
<i>Defendants.</i>	§	

**AMENDED ORDER<sup>1</sup>**

The Court has reviewed the Joint Notice Regarding Trial Procedures (ECF No. 683) and the various submissions filed by the parties in connection with the bench trial set to begin on September 11, 2023. *See* ECF Nos. 675–92.

If the Court understands the parties’ submissions correctly, the Private Plaintiffs have announced that 58 individuals will offer live trial testimony and an additional 42 individuals may be called as witnesses, if needed. The State Defendants have identified 9 individuals who will appear live at trial, and an additional 15 individuals who may be called. The United States has identified 6 live witnesses and additional 14 witnesses who may be called. The parties have submitted or intend to submit to the Court numerous deposition excerpts.

The Court previously believed that the parties intended to try this case in two phases to allow for resolution of an evidentiary matter currently before the Fifth Circuit, with the first phase devoted to claims addressing SB 1’s impact (“Phase I”) and the second phase devoted to claims alleging intentional discrimination (“Phase II”). *See* ECF No. 615; *LUPE v. Bettencourt*, No. 23-

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<sup>1</sup> This order amends the Court’s order filed on August 1, 2023 (ECF No. 695), to reflect additional dates available for trial proceedings during the week of Monday, September 18, 2023.

50201 (5th Cir.). Given the number of witnesses and trial exhibits identified in the parties' disclosures, it appears that the parties plan to proceed to trial on September 11, 2023 on all claims.<sup>2</sup>

The parties anticipate providing to the Court by August 11 an advisory estimating the time needed for presentation of their affirmative cases and cross-examination. The advisory should clearly state whether the parties intend to proceed with trial on all claims or merely the Phase I claims. The advisory should also identify which witnesses are expected to testify on which days and the subject of their testimony.

To assist the parties with their August 11 submission, the Court advises the parties that the number of witnesses identified in the parties' Joint Notice appears highly unnecessary and the Court will not allow repetitive or cumulative testimony. Simply stated, the parties—especially the Private Plaintiffs—will need to cull their witness lists.

Some of the County Defendants listed expert witnesses to address the issue of attorney's fees expended in this case. Pursuant to Local Rule CV-54, the issue of entitlement, if any, to attorney's fees will be addressed post-trial. Accordingly, no expert witness testimony is needed at trial on this issue.

Regarding trial exhibits, the various Plaintiffs have identified over 1,250 exhibits. The State Defendants have identified 315 exhibits and the United States has identified 351 exhibits. The parties should ensure that duplicative exhibits are not offered. Further, the parties should meet and confer and indicate to the Court by September 11 which exhibits can be admitted because no objections will be lodged, and which exhibits are objected to.

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<sup>2</sup> Should the parties wish to proceed with trial on all claims, the trial record will remain open with respect to the claims for intentional discrimination pending resolution of the *Bettencourt* appeal. Additional evidence that may be introduced in support of the intentional discrimination claims after the resolution of the *Bettencourt* appeal will be limited to the documents that are the subject of that appeal and any deposition or live witness testimony related to the subject matter of those documents as ordered by the Court or agreed to by the parties.

In light of a number of upcoming holidays and the Court's other commitments and cases, the Court notes that it can offer the dates listed below for trial proceedings.

Monday, September 11, 2023  
Tuesday, September 12, 2023  
Wednesday, September 13, 2023  
Thursday, September 14, 2023

Monday, September 18, 2023  
Tuesday, September 19, 2023  
Wednesday, September 20, 2023  
Thursday, September 21, 2023  
Friday, September 22, 2023

Monday, October 2, 2023  
Tuesday, October 3, 2023  
Wednesday, October 4, 2023  
Thursday, October 5, 2023  
Friday, October 6, 2023

Tuesday, October 10, 2023  
Wednesday, October 11, 2023  
Thursday, October 12, 2023

Monday, October 16, 2023  
Tuesday, October 17, 2023  
Wednesday, October 18, 2023  
Thursday, October 19, 2023  
Friday, October 20, 2023

Monday, October 23, 2023  
Tuesday, October 24, 2023

Monday, October 30, 2023  
Tuesday, October 31, 2023  
Wednesday, November 1, 2023

Monday, November 6, 2023  
Tuesday, November 7, 2023  
Wednesday, November 8, 2023

Monday, November 13, 2023  
Tuesday, November 14, 2023  
Wednesday, November 15, 2023  
Thursday, November 16, 2023  
Friday, November 17, 2023

It is so **ORDERED**.

**SIGNED** this 8th day of August, 2023.



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XAVIER RODRIGUEZ  
UNITED STATES DISTRICT JUDGE